

STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE

No. 49

FIRST AMENDED  
NOTICE  
OF  
FORMAL PROCEEDINGS

TO: JUDGE HARRY R. ROBERTS

Pursuant to Rule 911, California Rules of Court, the Notice of Formal Proceedings served on you on June 16, 1981 is amended as follows:

You are hereby charged with wilful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

The specifications of the charges and the alleged facts upon which such charges are based are as follows:

COUNT ONE

During court proceedings on or about June 9, 1978, in Harmon v. Mono General Hospital (Mono County Superior Court No. 6166) you engaged in a course of conduct of addressing plaintiff's attorney, Elizabeth Walker, in disparaging and unjudicial terms by accusing Mrs. Walker's clients of perjury and by improperly ordering Mrs. Walker to cease making further argument or objections or else she would be placed in jail. You also improperly engaged in ex parte discussions relating to the merits of pending

issues in said case with then Deputy District Attorney Robert Burnham.

#### COUNT TWO

Shortly after June 5, 1979, after you had granted a defense motion to suppress evidence in People v. Robert Fish (Mono County Superior Court No. 6416), you made unjudicial remarks to Deputy District Attorney David Cross after he had informed you that he was going to challenge your ruling by a petition for writ of mandate. During this conversation you constantly shook your finger at Mr. Cross and referred to him as "buddy boy."

#### COUNT THREE

Shortly after June 5, 1979, after you had granted a defense motion to suppress evidence in People v. Robert Fish (Mono County Superior Court No. 6414), you improperly interjected yourself into proceedings to be filed in the appellate court by the district attorney by contacting defense attorney Edward Forstenzer ex parte and attempting to give Mr. Forstenzer advice on how to defend your ruling. It is also alleged that, while in the courthouse, you had a conversation with Mr. Forstenzer at which time you made unjudicial comments regarding your rulings in future cases involving Mr. Forstenzer if he did not win in the appellate court.

#### COUNT FOUR

After the Court of Appeal, Third Appellate District had issued a published opinion in People v. Superior Court

(Fish) (Mono County No. 6416; 3 Civ. 18742) but before the authorized time for granting or denying rehearing had passed, you made an ex parte telephone call to Presiding Justice Robert Puglia regarding the merits of the Fish case in violation of Government Code section 68070.5.

COUNT FIVE

During court proceedings on February 15, 1979, and March 12, 1979, in the juvenile court case of In re Jeremy C. (Mono County Juvenile Court No. 337), you treated witnesses, litigants, and an attorney in a rude, improper, and intimidating manner. You also abused your contempt power on July 12, 1979 when you found Mrs. Cogliano in contempt, sentenced her to jail for twenty-four hours and then rescinded the contempt order the next morning after Mrs. Cogliano had already spent the night in jail.

COUNT SIX

In In re Jeremy C. (Mono County Juvenile Court No. 337), subsequent to your order placing the minor in a foster home, you informed attorney Sandra Medina that you would report her to the State Bar if she advised the minor's mother to appeal your decision.

Also subsequent to said placement order you spoke with Mono County Public Defender Edward Forstenzer, who represented the minor, and asked Mr. Forstenzer to try to persuade the minor's mother not to appeal your decision. Said decision was subsequently reversed on appeal by the

Court of Appeal, Third Appellate District in In re Jeremy C.  
(1980) 109 Cal.App.3d 384 (3 Civ. 18569).

COUNT SEVEN

After the June 1980 election at which time you were reelected, you improperly attempted to influence the decision of Inyo County Superior Court Judge Vern Summers in a case where you had been disqualified pursuant to Code of Civil Procedure section 170.6 by attorney Sandra Medina by stating to Judge Summers in the Mono County Courthouse, "there is no merit to the motions that bitch made. It shouldn't take long to rule against her." The reference was to attorney Sandra Medina who was a political supporter of your election opponent, Justice Court Judge William J. Murano.

COUNT EIGHT

On June 30, 1980, just prior to the commencement of the court trial in People v. Victor Le Chuga (Mono County Superior Court No. 6683), you improperly ordered Deputy Public Defender Linda Anisman removed from representing Mr. Le Chuga and delayed proceedings until Mono County Public Defender Edward Forstenzer arrived after having driven approximately 110 miles from Bishop to Bridgeport, California. In chambers you reduced Ms. Anisman to tears after making additional charges of incompetency. Your conduct constituted an unwarranted interference with the attorney-client relationship and the operation of the public defender's office.

COUNT NINE

On February 3, 1981, you were convicted, after a jury trial, of violating Penal Code section 148 (resisting, delaying, or obstructing a public officer) in People v. Harry R. Roberts (Marin County Municipal Court No. C33019).

COUNT TEN

On July 18, 1980, you abused your judicial office by improperly attempting to utilize your judicial authority against law enforcement officers who were engaged in the performance of their duties during a traffic stop of your son in Marin County.

COUNT ELEVEN

While at the 1981 Cow County Judges Conference at South Lake Tahoe, you initiated ex parte contact with Presiding Justice Robert Puglia in violation of Government Code section 68070.5 regarding the case of People v. Donna Mason, et al. (Mono County No. 6708; 3 Civ. 20418) while said case was pending on appeal in the Court of Appeal, Third Appellate District.

You have the right to file a written answer to these charges within fifteen (15) days after service of this Notice upon you with the Special Masters who have been appointed by the Commission on Judicial Performance. A copy of said answer should also be served on Examiner W. Scott Thorpe, at 555 Capitol Mall, Suite 350, Sacramento, California

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95814. Such answer shall be verified and shall conform in style to subdivision (c) of Rule 15 of the Rules on Appeal.

BY ORDER OF THE PRESIDING SPECIAL MASTER APPOINTED  
BY THE COMMISSION ON JUDICIAL PERFORMANCE

Dated: OCT 26 1981

Thomas N. Healy  
Presiding Special Master

INQUIRY CONCERNING A JUDGE

No. 49

NO.

DECLARATION OF PERSONAL  
SERVICE

I, W. SCOTT THORPE, declare as follows:

I am and was at the time of service of the

FIRST AMENDED NOTICE OF FORMAL PROCEEDINGS

herein, over the age of 18 years and not a party to the above proceeding; that I served the said document(s) by delivering a true copy thereof to each of the following named persons, personally:

| <u>NAME</u>    | <u>ADDRESS</u>         | <u>DATE</u> |
|----------------|------------------------|-------------|
| Justin Roberts | Mono County Courthouse | 10/28/81    |

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed on  
, at Sacramento, California.

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Declarant